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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,585	12/09/2003	Feliks Sukhovitsky	FRA3089	3884

30245 7590 11/17/2004

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EXAMINER
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AMERSON, LORI BAKER

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/731,585

Applicant(s)

SUKHOVITSKY, FELIKS

Examiner

L. Amerson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 8 and 9 is/are rejected.
- 7) ☒ Claim(s) 3, 4 and 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/9/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trenary. Trenary discloses exercise equipment having a hand, elbow, and knee attachment in figure 1. Trenary shows the foot of the user attached along with the calf portion of the leg on the leg attachment portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the foot with a foot attachment since the knee and lower leg are attached to an attachment device where the foot is included as well. As to claim

b. Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trenary as applied to claim 1 above, and further in view of Boynton.

Trenary discloses all of the limitations including a hand base having a top and bottom and a wheel attached to the bottom of the hand base (fig.1) but do not disclose a protruding hand pad. Boynton teaches a protruding pad. It would have been obvious to one having ordinary skill in the art at the time the invention was made to show a pad protruding from a hand base in order to provide comfort to a user's grasp, as taught by Boynton. As to claim 6, Trenary discloses a knee base having a top, bottom and wheel but does not disclose a pad or straps.

Boynton teaches a knee pad (1) attached to the top of the knee base and a first and second strap. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Trenary such that a pad and straps are capable of providing comfort and safe use to the user while performing exercises.

c. Claims 5 and 9 rejected under 35 U.S.C. 103(a) as being unpatentable over Trenary as applied to claim 1 above, and further in view of Marchetti.

Trenary discloses all of the limitations of the claimed invention except for a boot having opposing ends where the knee is attached and coated with polytetrafluoroethylene. Marchetti teaches in figure 3a a boot having a knee attached and a plurality of wheels. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the knee base attached to a boot to provide the user with a more comfortable fit for moving across the surface of a floor. Regarding the coating, the Applicant should note that the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 967, 125 USPQ 416 (CCPA 1960).

d. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trenary as applied to claim 1 above, and further in view of Nutter. Trenary discloses all of the limitations of the claimed invention except for a shoe having a wheel attachment. Nutter teaches a shoe having a wheel attached in figure 3. It would have been obvious to one having ordinary skill in the art at the time the

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invention was made to include a shoe attachment for a user's foot in order to roll across the surface of the floor as taught by Nutter.

***Allowable Subject Matter***

2. Claims 3-4, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 10-20 are allowed.

***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the attachment of Williams and Ghobadi.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Amerson whose telephone number is (703) 306-5576. The examiner can normally be reached on Mon.-Fri from 8-5 p.m. Interviews Tue. And Thur..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "L. Amerson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

L. Amerson